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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,300	06/18/2001	Johnson Kuo	01-9676	5886

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EXAMINER

CROW, STEPHEN R

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 04/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/884,300

Applicant(s)
Kuo

Examiner
Crow

Art Unit
3764



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

STEPHEN R. CROW
PRIMARY EXAMINER

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Reissue Applications

1. The patent sought to be reissued by this application is involved in litigation. Any documents and/or materials which would be material to the patentability of this reissue application are required to be made of record in reply to this action.

Due to the related litigation status of this application, EXTENSIONS OF TIME UNDER THE PROVISIONS OF 37 CFR 1.136(a) WILL NOT BE PERMITTED DURING THE PROSECUTION OF THIS APPLICATION.

2. The reissue oath/declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP § 1414.

3. The reissue oath/declaration filed with this application is defective because it fails to contain a statement that all errors which are being corrected in the reissue application up to the time of filing of the oath/declaration arose without any deceptive intention on the part of the applicant. See 37 CFR 1.175 and MPEP § 1414.

4. Claims 1-29 are rejected as being based upon a defective reissue oath under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the oath is set forth in the discussion above in this Office action.

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5. This reissue application was filed without the required offer to surrender the original patent or, if the original is lost or inaccessible, an affidavit or declaration to that effect. The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

Drawings

6. New formal drawings are required in this application because the drawings filed have not been approved. Applicant's request to transfer drawings from the patented file has been denied. Transfer of drawings from the patent file will no longer be made by the Office. See 37 CFR 1.84. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the Patent and Trademark Office no longer prepares new drawings.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 3,4,8,10,13,14,26-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Easley et al.

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Easley discloses an exercise device having a base 30, footboard 86, back support 84 having a pivotal bottom end, supporting bar 70, back mattress 9, elastic resistance bands 102, and handgrips 94.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 5,7,9,17,21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Easley et al in view of Cheng (511).

As to claim 5, Cheng discloses a very similar type of exercise device having tubular telescoping means 1-11 for length adjustment of the frame. Given this teaching, it would have been obvious to one skilled in the exercise art to modify the Easley et al device by providing telescoping tubular frame members for length adjustment for accommodating different sized users.

As to claim 7, Cheng discloses a pivotal foot support means 4. Given this teaching, it would have been obvious to one skilled in the exercise art to modify the Easley et al device by providing pivotal foot support members for additional exercise and inherently for collapsibility purposes.

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As to claim 9, Cheng discloses telescoping back means 3 for vertical length adjustment of the frame. Given this teaching, it would have been obvious to one skilled in the exercise art to modify the Easley et al device by providing telescoping back frame members for length adjustment for accommodating different sized users.

As to claims 17, 21-24, although Easley et al shows the user's legs at less than 90 degrees, the examiner contends that the effective angle is determined by the size of the user and obvious modifications of the exercise frame. Therefore, if not inherent in the use of Easley's device, the examiner contends that a starting angle of greater than 90 degrees would be an obvious starting point for hitting the quadriceps muscles at a different angle which is generally well recognized in the exercise squatting art. Applicant's own drawings (fig 9) clearly depict a leg angle of less than 90 degrees.

11. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Easley et al in view of Gvoich.

Gvoich teaches the use of a length adjustable headrest 20. Given this teaching, it would have been obvious to one skilled in the exercise art to provide the Easley et al frame with an adjustable headrest which is length adjustable from the mattress 78 for accommodating different sized users.

12. Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Easley et al in view of McBride.

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McBride teaches the use of transverse bars having wheelss 84 and teaches a pivotal seat 16. Given this teaching, it would have been obvious to one skilled in the exercise art to provide the Easley et al frame with a transverse bar and wheels for portability purposes and an adjustable seat which is angle adjustable with respect to the frame for accommodating different sized users.


13. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Easley et al in view of Chen.

Chen teaches the use of elastic cords attached to a frame. Given this teaching, it would have been obvious to one skilled in the exercise art to provide the Easley et al frame with a pair of elastic cords for providing upper body arm exercise while working out.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Crow whose telephone number is (703) 308-3398.


STEPHEN R. CROW
PRIMARY EXAMINER
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